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Attorneys for Plaintiff
ELSA TERRELL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ELSA TERRELL, Individually and on Behalf)
of All Others Similarly Situated,)

Plaintiff,)

vs.)

BORREGO SPRINGS BANK, N.A., and)
DOES 1-10, inclusive,)

Defendants.)

Civil Action No.: **'11 CV0926 JAH POR**

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff ELSA TERRELL, individually, and on behalf of all others similarly situated
 2 (“Plaintiff”), alleges upon knowledge with respect to herself and upon information and belief based,
 3 in part, on the investigation of counsel, as follows:

4 **I. PRELIMINARY STATEMENT**

5 1. Plaintiff brings this action, individually and on behalf of all others similarly situated,
 6 against Defendants (as defined in ¶12, *infra*) alleging violations of 15 U.S.C. § 1693 *et seq.*,
 7 commonly known as the Electronic Fund Transfer Act (the “Act”), and 12 C.F.R. § 205 *et seq.*,
 8 commonly known as Regulation E (“Regulation E”), which contains regulations promulgated by the
 9 Board of Governors of the Federal Reserve System to implement the Act (the Act and Regulation E
 10 shall hereinafter be collectively referred to as the “EFTA”).

11 2. The EFTA establishes the basic rights, liabilities, and responsibilities of consumers
 12 who use electronic fund transfer services and of financial institutions that offer these services. The
 13 primary objective of the EFTA and Regulation E is the protection of consumers engaging in
 14 electronic fund transfers. 12 C.F.R. § 205.1(b). The EFTA requires specific disclosures be given by
 15 operators of any automated teller machine (“ATM”) to users of an ATM, prior to the imposition of a
 16 fee for using an ATM. 15 U.S.C. § 1693b.

17 3. The Congressional findings and declaration of purpose regarding the EFTA provides:

18 (a) Rights and liabilities undefined

19 The Congress finds that the use of electronic systems to transfer funds provides the
 20 potential for substantial benefits to consumers. However, due to unique
 21 characteristics of such systems, the application of existing consumer protection
 legislation is unclear, leaving the rights and liabilities of consumers, financial
 institutions and intermediaries in electronic fund transfers undefined.

22 (b) Purposes

23 It is the purpose of this subchapter to provide a basic framework establishing the
 24 rights, liabilities, and responsibilities of participants in electronic fund transfer
 25 systems. The primary objective of this subchapter, however, is the provision of
 individual consumer rights

26 4. The EFTA specifically requires that an ATM must have a posted notice attached on
 27 or at the machine informing consumers of the imposition of an ATM surcharge. 15 U.S.C. §
 28 1693b(d)(3).

fictitiously named defendants is responsible in some manner for the conduct alleged herein and for the injuries suffered by Plaintiff and the proposed class as a result of defendants' wanton and illegal conduct.

12. Borrego Springs Bank, and Does 1 through 10, inclusive, are collectively hereinafter referred to as "Defendants."

IV. BACKGROUND

A. **Electronic Funds Transfer Act**

13. "Electronic funds transfer" is defined as "any transfer of funds . . . which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes . . . automated teller machine transactions" 15 U.S.C. § 1693a(6); *see also* 12 C.F.R. § 205.3(b).

14. Defendants are an "automated teller machine operator" as that term is defined by 12 C.F.R. § 205.16(a), which states: "Automated teller machine operator means any person that operates an automated teller machine at which a consumer initiates an electronic fund transfer or a balance inquiry and that does not hold the account to or from which the transfer is made, or about which an inquiry is made."

15. 15 U.S.C. § 1693b(d)(3)(A) and (B), and the implementing regulation, 12 C.F.R. § 205.16(b) and (c), require an ATM operator who imposes a fee on a consumer for "host transfer services" (an electronic fund transfer or a balance inquiry) to provide notice to the consumer of the fee before the consumer is committed to the transaction. Specifically, 12 C.F.R. § 205.16(b) states:

General. An automated teller machine operator that imposes a fee on a consumer for initiating an electronic fund transfer or a balance inquiry shall:

- (1) Provide notice that a fee will be imposed for providing electronic fund transfer services or a balance inquiry; and
- (2) Disclose the amount of the fee.

16. 15 U.S.C. § 1693b(d)(3)(B), and its implementing regulation, 12 C.F.R. § 205.16(c), specifies the notice to be provided to consumers. 12 C.F.R. § 205.16(c) states:

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1 (c) *Notice requirement.* To meet the requirements of paragraph (b) of
 2 this section, an automated teller machine operator must comply with the
 following:

3 (1) *On the machine.* Post in a prominent and conspicuous
 4 location on or at the automated teller machine a notice that:

5 (i) A fee will be imposed for providing electronic fund
 transfer services or for a balance inquiry; or

6 (ii) A fee may be imposed for providing electronic fund
 7 transfer services or for a balance inquiry, but the notice in this
 paragraph (c)(1)(ii) may be substituted for the notice in
 8 paragraph (c)(1)(i) only if there are circumstances under
 which a fee will not be imposed for such services; and

9 (2) *Screen or paper notice.* Provide the notice required by
 10 paragraphs (b)(1) and (b)(2) of this section either by showing it on the
 screen of the automated teller machine or by providing it on paper,
 11 before the consumer is committed to paying a fee.

12 17. Pursuant to this regulation, the notice physically attached to the ATM must comply
 13 with 12 C.F.R. § 205.16(c), either by stating that a fee will be imposed, or if there are circumstances
 14 in which a fee will not be imposed, that a fee may be imposed.

15 18. 15 U.S.C. § 1693b(d)(3)(C), and its implementing regulation, 12 C.F.R. § 205.16(e),
 16 provide that no fee may be imposed by an ATM operating in connection with any electronic fund
 17 transfer initiated by a consumer for which a notice is required unless the consumer is provided the
 18 notices required pursuant to 12 C.F.R. § 205.16(c). Specifically, 15 U.S.C. § 1693b(d)(3)(C) states
 19 in relevant part:

20 (C) **Prohibition on fees not properly disclosed and explicitly**
 21 **assumed by consumer.** No fee may be imposed by any automated
 22 teller machine operator in connection with any electronic fund
 23 transfer initiated by a consumer for which a notice is required under
 subparagraph (A), unless – (i) the consumer receives such notice in
 24 accordance with subparagraph (B); and (ii) the consumer elects to
 continue in the manner necessary to effect the transaction after
 receiving such notice.

25 Similarly, 12 C.F.R. § 205.16(e) provides that:

26 (e) *Imposition of fee.* An automated teller machine operator may
 27 impose a fee on a consumer for initiating an electronic fund transfer
 or a balance inquiry only if
 28

1 (1) The consumer is provided the notices required under paragraph
 2 (c) of this section, and

3 (2) The consumer elects to continue the transaction or inquiry after
 4 receiving such notices.

5 19. In connection with 2006 amendments to the EFTA, the Board of Governors of the
 6 Federal Reserve published its Final Rule and official staff interpretation which, *inter alia*, explained
 7 the EFTA's disclosure requirements as follows:

8 The final rule clarifies the *two-part disclosure scheme established in Section*
 9 *904(d)(3)(B) of the EFTA. The first disclosure, on ATM signage posted on or at*
 10 *the ATM, allows consumers to identify quickly ATMs that generally charge a fee*
 11 *for use. This disclosure is not intended to provide a complete disclosure of the fees*
 12 *associated with the particular type of transaction the consumer seeks to conduct.*
 13 Until a consumer uses his or her card at an ATM, the ATM operator does not know
 14 whether a surcharge will be imposed for that particular consumer. Rather, it is the
 15 second, more specific disclosure, made either on the ATM screen or an ATM receipt,
 16 that informs the customer before he or she is committed to the transactions whether,
 17 in fact, a fee will be imposed for the transaction and the amount of the fee....

18 71 F.R. 1638, 1656 (emphasis added).

19 20. Thus, the statute and regulation require that a physical notice must be displayed
 20 informing consumers that the ATM imposes a surcharge, and that the ATM screen must definitively
 21 state that a fee will be imposed, before that fee is imposed.

22 21. The EFTA imposes strict liability upon ATM operators that fail to comply with its
 23 disclosure requirements. *See Burns v. First American Bank*, 2006 WL 3754820, *6 (N.D. Ill. Dec.
 24 19, 2006). A plaintiff seeking statutory damages under the EFTA need not prove that he or she
 25 sustained any actual financial loss, or that he or she relied upon the lack of mandatory disclosure as
 26 an inducement to enter into a transaction. *Burns*, 2006 WL 3754820, *6 (“Section 1693b(d)(3)
 27 prohibits an ATM operator from charging a fee unless it provides notice of its fee on the machine
 28 and on the screen, period, no mention of a necessary scienter.”)

22. The notice referenced in 15 U.S.C. § 1693f has no arguable applicability to Plaintiff's
 claims because, among other things, Plaintiff is not an account holder of Defendants.

26 **B. Defendants' Conduct**

27 23. Defendants are ATM operators regulated under the EFTA, 15 U.S.C. § 1693 *et seq.*
 28 and 12 C.F.R. Part 205 (Regulation E), as that term is defined in 12 C.F.R. § 205.16(a).

24. Defendants are operators of the Borrego Springs Bank ATM located at or about 7777 Alvarado Rd., La Mesa, California 91942.

25. Defendants are owners of the Borrego Springs Bank ATM located at or about 7777 Alvarado Rd., La Mesa, California 91942.

26. The Borrego Springs Bank ATM permits consumers to perform electronic fund transfers, as defined in 12 C.F.R. § 205.3.

27. The Borrego Springs Bank ATM imposes a fee on consumers who withdraw cash from the Borrego Springs Bank ATM.

28. Defendants failed to post on or at the Borrego Springs Bank ATM a notice that a fee will be imposed for withdrawing cash or for a balance inquiry, resulting in Defendants' improper imposition of a fee to Plaintiff and other users of the Borrego Springs Bank ATM.

29. Defendants' failure to post the required notice on or at the Borrego Springs Bank ATM has resulted in frequent and persistent non-compliance with the EFTA. Said violations of the EFTA have adversely affected hundreds or thousands of consumers.

30. Despite knowing of the ATM fee notice provisions of the EFTA, Defendants have violated the EFTA by failing to post the required ATM fee notice at the Borrego Springs Bank ATM and improperly imposing ATM fees.

31. Defendants' non-compliance with the ATM fee notice requirements of the EFTA, and subsequent imposition of a fee on Plaintiff and the members of the proposed class, did not result from a bona fide error.

C. Plaintiff's Electronic Funds Transfers With Defendants

32. Plaintiff is a consumer as defined in 12 C.F.R. § 205.2(e).

33. Within one year of the filing of this Complaint, Plaintiff used the Borrego Springs Bank ATM described in this Complaint in order to conduct an electronic funds transfer involving the withdrawal of cash.

34. The Borrego Springs Bank ATM did not have the fee notice required by 15 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16, as it did not have any sign affixed to it or in close proximity to

1 it informing consumers that use of the Borrego Springs Bank ATM will or may result in an ATM
2 surcharge.

3 35. Plaintiff was in fact assessed a \$1.75 ATM surcharge fee for withdrawing cash from
4 the Borrego Springs Bank ATM described in this Complaint.

5 **V. CLASS ALLEGATIONS**

6 36. Plaintiff brings this class action on behalf of herself and all other similarly situated
7 persons pursuant to Rule 23(a), (b)(1), (b)(3) of the Federal Rules of Civil Procedure. Plaintiff
8 hereinafter sets forth facts and allegations more specifically in support of her class action allegations.

9 37. Plaintiff seeks to represent a class of similarly situated persons, consisting of (a) all
10 consumers (b) who initiated an electronic funds transfer at the Borrego Springs Bank ATM
11 described in ¶9, *supra*, and (c) were assessed a fee for withdrawing cash from the Borrego Springs
12 Bank ATM described in ¶9, *supra*, (d) on or after the date one year prior to the filing of this action
13 and continuing through the trial of this cause or until Defendants are compliant with the EFTA by
14 posting the appropriate notice (the “Class”).

15 38. Congress expressly intended that the EFTA would be enforced, in part, through
16 private class actions. 15 U.S.C. § 1693m(a).

17 39. Plaintiff is informed and believes, and thereon alleges, that there are at minimum,
18 hundreds of members of the Class.

19 40. The exact size of the Class and the identities of the individual members thereof are
20 ascertainable through Defendants’ records. Defendants have exclusive control of this information.

21 41. Members of the Class may be notified of the pendency of this action by techniques
22 and forms commonly used in class actions, such as by published notice, e-mail notice, website
23 notices, first class mail, or combinations thereof, or by other methods suitable to this Class and
24 deemed necessary and/or appropriate by this Court.

25 42. Defendants can generate data for its Borrego Springs Bank ATM identifying each
26 transaction in which a fee was charged. The data will include the date of the transaction, the amount
27 of the fee and the personal account number (“PAN”) for the consumer. The PAN includes a bank
28 identification number (“BIN”). This information can be used to identify members of the Class.

1 43. The Class is sufficiently numerous to make bringing all parties before the Court
2 impractical pursuant to Rule 23(a)(1) of the Federal Rules of Civil Procedure.

3 44. Plaintiff's claims are typical of the claims of the members of the Class. The claims of
4 the Plaintiff and members of the Class are based on the same legal theories and arise from the same
5 unlawful conduct. Plaintiff and Class members seek recovery of statutory, not actual, damages.

6 45. Plaintiff and members of the Class were each users of the Borrego Springs Bank
7 ATM since the date one year prior to the filing of this action.

8 46. Plaintiff and each member of the Class were illegally charged an ATM fee as a result
9 of Defendants' failure to comply with the ATM fee notice requirements of the EFTA, thereby
10 resulting in common questions of law and fact pursuant to Rule 23(a)(2) of the Federal Rules of
11 Civil Procedure.

12 47. Plaintiff and each member of the Class received an inadequate notice regarding the
13 imposition of an ATM fee by the Borrego Springs Bank ATM.

14 48. The questions of law and fact common to the Class predominate over questions which
15 may affect individual members, including:

- 16 (a) Whether Defendants were at all relevant times during the class period
17 automated teller machine operators which imposed a fee on consumers for
18 providing host transfer services to those consumers;
19 (b) Whether Defendants are the operators of the Borrego Springs Bank ATM;
20 (c) Whether Defendants complied, at all times during the class period, with the
21 notice requirements of 15 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16; and
22 (d) Whether Plaintiff and members of the Class are entitled to statutory damages,
23 costs and attorney's fees for Defendants' acts and conduct.

24 49. Plaintiff can and will adequately and vigorously represent and protect the interests of
25 the members of the Class. Plaintiff has no interests antagonistic to the members of the Class.
26 Plaintiff has retained counsel able, competent and qualified to prosecute this class action litigation as
27 set forth in Rule 23(a)(4) of the Federal Rules of Civil Procedure.

28 50. Plaintiff and Plaintiff's counsel will fairly and adequately protect the interests of the
Class.

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51. In support of Plaintiff's allegations pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure, the Plaintiff avers that a class action is superior to other available means for the fair and efficient adjudication of the claims of the Class. While the aggregate damages that may be awarded to the members of the Class are likely to be substantial, the damages suffered by the individual members of the Class are relatively small. As a result, the expense and burden of individual litigation makes it economically infeasible and procedurally impracticable for each member of the Class to individually seek redress for the wrongs done to them. Plaintiff does not know of any other litigation concerning this controversy already commenced by or against any member of the Class. The likelihood of the individual members of the Class prosecuting separate claims is remote. Pursuant to Rule 23(b)(1)(A) of the Federal Rules of Civil Procedure individualized litigation would also present the potential for varying, inconsistent, or contradictory judgments, and would increase the delay and expense to all parties and the court system resulting from multiple trials of the same factual issues. In contrast, the conduct of this matter as a class action presents fewer management difficulties, conserves the resources of the parties and the court system, and would protect the rights of each member of the Class. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action.

VI. CLAIMS

COUNT I

Against All Defendants for Violation of 15 U.S.C. § 1693 *et seq.* and 12 C.F.R. 205 *et seq.*

52. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

53. Plaintiff asserts this claim on behalf of herself and the Class against Defendants.

54. Defendants failed to provide notices to the Plaintiff and the Class as required by 15 U.S.C. § 1693b(d)(3) and 12 C.F.R. § 205.16(c), and imposed a fee in violation of 15 U.S.C. § 1693b(d)(3)(C) and 12 C.F.R. §§ 205.16(b) and (e).

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1 55. 15 U.S.C. § 1693b(d)(3)(C), and its implementing regulation, 12 C.F.R. § 205.16(e),
2 prohibit the imposition and receipt of a fee for conducting an electronic fund transfer unless a notice
3 of the fee is posted in a prominent and conspicuous location on or at the ATM.

4 56. Defendants imposed and received a fee in violation of 15 U.S.C. § 1693b(d)(3)(C),
5 and its implementing regulation, 12 C.F.R. § 205.16(e).

6 57. As a result of Defendants' violations of the EFTA, Defendants are liable to Plaintiff
7 and the Class for statutory damages pursuant to 15 U.S.C. § 1693m.

8 58. As a result of Defendants' violations of the EFTA, Plaintiff and the members of the
9 Class are entitled to recover costs of suit and their reasonable attorney's fees.

10 **REQUEST FOR RELIEF**

11 **WHEREFORE**, Plaintiff, on behalf of herself and the members of the Class, prays for:

12 A. An order certifying the Class and appointing Plaintiff as the representative of the
13 Class, and appointing undersigned counsel as Class Counsel;

14 B. An award to Plaintiff and the members of the Class of statutory damages pursuant to
15 15 U.S.C. § 1693m;

16 C. Payment of costs of suit herein incurred pursuant to 15 U.S.C. § 1693m(a)(3);

17 D. Payment of reasonable attorney's fees pursuant to 15 U.S.C. § 1693m(a)(3); and

18 E. For other and further relief as the Court may deem proper.

19 **JURY TRIAL DEMANDED**

20 Plaintiff hereby demands a trial by jury.

21 DATED: April 29, 2011

s/ Mark A. Golovach

22

MARK A. GOLOVACH

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Attorneys for Plaintiff
ELSA TERRELL

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JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

ELSA TERRELL, Individually and on Behalf of All Others Similarly Situated

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Mark A. Golovach, Esq., Pacific Coast Law Group, 501 W. Broadway, Suite 800, San Diego, California, 92101, 619/400-4895

DEFENDANTS

BORREGO SPRINGS BANK, N.A., and DOES 1-10, inclusive

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

'11CV0926 JAH POR

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 15 U.S.C. section 1693, et seq.; 12 C.R.F. section 205, et seq.

28:1331 YEB

Brief description of cause:

Defendants' violation of the Electronic Fund Transfer Act and Regulation E

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

04/29/2011

SIGNATURE OF ATTORNEY OF RECORD

Mark A. Golovach

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE